In *Cantwell* this court recognized that "[W]hen clear and present danger of riot, disorder, interference with traffic upon the public streets, or other immediate threat to public safety, peace, or order, appears, the power of the State to prevent or punish is obvious."

Respondent submits the actions of petitioners did not constitute peaceful picketing as was the situation in *Garner v. Louisiana,* 368 U.S. 157, where persons were sitting at a lunch counter merely desiring service.

Petitioners entered the store, removed products from shelves, filled shopping carts with bakery products, sang and clapped their hands, and left leaflets and signs strewn about in the aisle. This, respondent submits, is not free speech.

If every product that is sold in a market, or if every lessee in a market were to arouse some group to such an extent that it was to enter the premises and picket either the product or the lessee, respondent submits this would be utter chaos, constituting a clear and present danger to the peaceful operation of the market.

Just as "the most stringent protection of free speech would not protect a man in falsely shouting fire in a theater and causing panic," it is submitted that free speech would not justify the conduct and actions of the petitioners in this case.

Petitioners rely on *Schwartz-Torrance Investment Corp. v. Bakery and Confectionery Workers Union,* 61 Cal. 2d 766, as justification for picketing inside the Thriftimart premises. In that case the pickets were on the sidewalk adjacent to the store. At no time did the pickets enter the store itself.

If petitioners herein had remained on the sidewalk adjacent to the Thriftimart premises they might have been exercising their right of free speech. When they entered the market, interfering with the business carried on therein, their conduct was subject to valid control by the State.

Respondent submits that the statute is constitutional.

Conclusion.

The petition for writ of certiorari does not disclose there has been a violation of petitioners' rights under the federal Constitution, nor does it show that the highest court of the State of California has decided a federal question in conflict with applicable decisions of this court, or decided a federal question of substance not theretofore determined by this court.

It is urged that the petition be denied.

Respectfully submitted,

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